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9 Attorneys for Defendants
10 BNP PARIBAS and BNP PARIBAS
SECURITIES (ASIA) LIMITED

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO**

14 THOMAS WEISEL PARTNERS LLC, a Delaware
15 limited liability company, and THOMAS WEISEL
16 INTERNATIONAL PRIVATE LIMITED, an Indian
company,

17 Plaintiff,

18 vs.

18 BNP PARIBAS, a French corporation, BNP
19 PARIBAS SECURITIES (ASIA) LIMITED, a Hong
Kong company, and PRAVEEN CHAKRAVARTY,
an individual,

20 Defendant.

Case No. CV-07-06198 MHP
**DEFENDANTS BNP PARIBAS AND
BNP PARIBAS SECURITIES (ASIA)
LTD.'S ANSWER TO PLAINTIFFS'
FIRST AMENDED COMPLAINT**

(JURY TRIAL DEMANDED)

21
22 **BNP PARIBAS AND BNP PARIBAS SECURITIES (ASIA) LIMITED'S ANSWER**
23 **TO PLAINTIFFS' FIRST AMENDED COMPLAINT**

24 Defendants BNP Paribas ("BNP") and BNP Paribas Securities (Asia) Limited ("BNPP
25 Asia") hereby answer plaintiffs' First Amended Complaint and state in response to the allegations
26 therein as follows:
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28 1. BNP and BNPP Asia state that the paragraph contains legal conclusions to which no
admission or denial is warranted, and BNP and BNPP Asia respectfully refer all questions of law to

1 the Court. To the extent a response is necessary, BNP and BNPP Asia deny each and every one of
2 these allegations.

3 2. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
4 as to the truth of the allegations in Paragraph 2, and therefore deny each and every one of these
5 allegations.
6

7 3. BNP and BNPP Asia deny that they obtained and used confidential information from
8 Thomas Weisel Partners LLC's ("TWP LLC") computers, deny that they misappropriated TWP
9 LLC's confidential and trade secret information, and deny that they damaged TWP LLC's existing
10 and potential business relations. BNP and BNPP Asia deny that they acted unlawfully. BNP and
11 BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the
12 remaining allegations in Paragraph 3, and therefore deny each and every one of these allegations.
13

14 4. BNP and BNPP Asia admit that Mr. Chakravarty worked for Thomas Weisel
15 International Private Limited ("TWIPL"). BNP and BNPP Asia are without knowledge or
16 information sufficient to form a belief as to the truth of the remaining allegations in Paragraph 4, and
17 therefore deny each and every one of these allegations.

18 5. Denied.

19 6. BNP and BNPP Asia admit that plaintiffs announced in late-2007 that they were
20 shutting down Discovery Research. BNP and BNPP Asia are without knowledge or information
21 sufficient to form a belief as to the truth of the remaining allegations in Paragraph 6, and therefore
22 deny each and every one of these allegations.
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THE PARTIES

7. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 7, and therefore deny each and every one of these allegations.

8. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 8, and therefore deny each and every one of these allegations.

9. Admitted.

10. BNP and BNPP Asia admit that BNPP Asia is a brokerage operation organized under the laws of Hong Kong and headquartered in Hong Kong. BNP and BNPP Asia admit that BNP's 2006 Annual Report states that BNPP Asia "has sales teams in the United States (New York and San Francisco) and in Europe (London, Paris and Milan)." BNP and BNPP Asia deny that BNPP Asia provides equity research and/or brokerage services to clients located in California.

11. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 11, and therefore deny each and every one of these allegations.

JURISDICTION AND VENUE

12. Denied.

13. Denied.

14. Denied.

GENERAL ALLEGATIONS

15. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 15, and therefore deny each and every one of these allegations.

1 16. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 16, and therefore deny each and every one of these
3 allegations.

4 17. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
5 as to the truth of the allegations in Paragraph 17, and therefore deny each and every one of these
6 allegations.

7 18. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
8 as to the truth of the allegations in Paragraph 18, and therefore deny each and every one of these
9 allegations.
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11 19. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
12 as to the truth of the allegations in Paragraph 19, and therefore deny each and every one of these
13 allegations.
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15 20. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
16 as to the truth of the allegations in Paragraph 20, and therefore deny each and every one of these
17 allegations.

18 21. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 21, and therefore deny each and every one of these
20 allegations.
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22 22. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
23 as to the truth of the allegations in Paragraph 22, and therefore deny each and every one of these
24 allegations.

25 23. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
26 as to the truth of the allegations in Paragraph 23, and therefore deny each and every one of these
27 allegations.
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1 24. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 24, and therefore deny each and every one of these
3 allegations.

4 25. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
5 as to the truth of the allegations in Paragraph 25, and therefore deny each and every one of these
6 allegations.

7 26. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
8 as to the truth of the allegations in Paragraph 26, and therefore deny each and every one of these
9 allegations.
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11 27. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
12 as to the truth of the allegations in Paragraph 27, and therefore deny each and every one of these
13 allegations.
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15 28. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
16 as to the truth of the allegations in Paragraph 28, and therefore deny each and every one of these
17 allegations.

18 29. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
19 as to the truth of the allegations in Paragraph 29, and therefore deny each and every one of these
20 allegations.
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22 30. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
23 as to the truth of the allegations in Paragraph 30, and therefore deny each and every one of these
24 allegations.

25 31. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
26 as to the truth of the allegations in Paragraph 31, and therefore deny each and every one of these
27 allegations.
28

1 32. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
2 as to the truth of the allegations in Paragraph 32, and therefore deny each and every one of these
3 allegation.

4 33. Denied.

5 34. BNP and BNPP Asia admit that there were conversations between BNPP Asia and
6 Mr. Chakravarty regarding his desire to leave TWIPL and some other TWIPL employees' desire to
7 leave TWIPL. BNP and BNPP Asia are without knowledge or information sufficient to form a
8 belief as to the truth of the other allegations in Paragraph 34, and therefore deny each and every one
9 of these allegations.
10

11 35. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
12 as to the truth of the allegations in Paragraph 35, and therefore deny each and every one of these
13 allegations.
14

15 36. BNP and BNPP Asia admit that Mr. Chakravarty and a number of research analysts
16 employed by TWIPL were seeking employment opportunities elsewhere and that after learning of
17 that fact, Mr. Harris and Mr. Rousseau discussed employment opportunities with some TWIPL
18 employees. BNP and BNPP Asia deny the remaining allegations in Paragraph 36.

19 37. Denied.

20 38. Denied.

21 39. BNP and BNPP Asia deny that they were involved in the alleged conspiracy and that
22 they acted unlawfully. BNP and BNPP Asia admit that seventeen employees of Discovery Research
23 gave notice of their resignation from TWIPL. BNP and BNPP Asia are without knowledge or
24 information sufficient to form a belief as to the truth of the allegations in Paragraph 39, and therefore
25 deny each and every one of these allegations.
26

27 40. BNP and BNPP Asia deny that they improperly solicited any TWIPL employee and
28 deny that they acted unlawfully. BNP and BNPP Asia are without knowledge or information

1 sufficient to form a belief as to the truth of the allegations in Paragraph 40, and therefore deny each
2 and every one of these allegations.

3 41. BNP and BNPP Asia deny that they received any confidential information of TWP
4 LLC and TWIPL and deny that they acted unlawfully. BNP and BNPP Asia are without knowledge
5 or information sufficient to form a belief as to the truth of the allegations in Paragraph 41, and
6 therefore deny each and every one of these allegations.
7

8 42. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
9 as to the truth of the allegations in Paragraph 42, and therefore deny each and every one of these
10 allegations.

11 43. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
12 as to the truth of the allegations in the first sentence of Paragraph 43, and therefore deny this
13 allegation. BNP and BNPP Asia deny the allegation in the second sentence of Paragraph 43.
14

15 44. BNP Paribas and BNPP Asia admit that BNPP Asia issued the press release referred
16 to in paragraph 44. That press release speaks for itself. To the extent paragraph 44 sets forth any
17 allegations other than what is expressly stated in the press release, BNP Paribas and BNPP Asia
18 deny each and every one of these allegations.

19 45. Denied.

20 46. Denied.

21 47. BNPP and BNPP Asia deny the first sentence of this paragraph. BNP and BNPP Asia
22 are without knowledge or information sufficient to form a belief as to the truth of the allegations in
23 Paragraph 47, and therefore deny each and every one of these allegations.
24

25 48. Denied.

26 49. Denied.

27 50. Denied.
28

FIRST CAUSE OF ACTION

51. To the extent a response is required, BNP and BNPP Asia deny the allegations in Paragraph 51.

52. Denied.

53. Denied.

54. Denied.

55. Denied.

56. Denied.

SECOND CAUSE OF ACTION

57. To the extent a response is required, BNP and BNPP Asia deny the allegations in Paragraph 57.

58. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 58, and therefore deny each and every one of these allegations.

59. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 59, and therefore deny each and every one of these allegations.

60. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 60, and therefore deny each and every one of these allegations.

61. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 61, and therefore deny each and every one of these allegations.

62. Denied.

63. Denied.

64. Denied.

65. Denied.

THIRD CAUSE OF ACTION

66. To the extent a response is necessary, BNP and BNPP Asia deny the allegations in Paragraph 66.

67. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 67, and therefore deny each and every one of these allegations..

68. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 68, and therefore deny each and every one of these allegations..

69. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 69, and therefore deny each and every one of these allegations..

70. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 70, and therefore deny each and every one of these allegations..

71. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 71, and therefore deny each and every one of these allegations..

72. Denied.

73. Denied.

FOURTH CAUSE OF ACTION

74. To the extent a response is required, BNP and BNPP Asia deny the allegations in Paragraph 74.

1 75. Denied.

2 76. Denied.

3 77. Denied.

4 **FIFTH CAUSE OF ACTION**

5 78. To the extent a response is required, BNP and BNPP Asia deny the allegations in
6 Paragraph 78.

7 79. Denied.

8 80. Denied.

9 81. Denied.

10 82. Denied.

11 83. Denied.

12 84. Denied.

13 **SIXTH CAUSE OF ACTION**

14 85. To the extent a response is required, BNP and BNPP Asia deny the allegations in
15 Paragraph 85.

16 86. BNP and BNPP Asia are without knowledge or information sufficient to form a belief
17 as to the truth of the allegations in Paragraph 86, and therefore deny each and every one of these
18 allegations.

19 87. Denied.

20 88. Denied.

21 89. Denied.

22 90. Denied.

23 91. Denied.

24 92. Denied.

SEVENTH CAUSE OF ACTION

93. To the extent a response is required, BNP and BNPP Asia deny the allegations in Paragraph 93.

94. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 94, and therefore deny each and every one of these allegations.

95. Denied.

96. Denied.

97. Denied.

98. Denied.

99. Denied.

100. Denied.

101. Denied.

EIGHTH CAUSE OF ACTION

102. To the extent a response is required, BNP and BNPP Asia deny the allegations in Paragraph 102.

103. BNP and BNPP Asia are without knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 103, and therefore deny each and every one of these allegations.

104. Denied.

105. Denied.

106. Denied.

NINTH CAUSE OF ACTION

107. To the extent a response is required, BNP and BNPP Asia deny the allegations in Paragraph 107.

1 108. Denied.

2 109. Denied.

3 110. Denied.

4 111. Denied.

5 **TENTH CAUSE OF ACTION**

6
7 112. To the extent a response is required, BNP and BNPP Asia deny the allegations in
8 Paragraph 112.

9 113. Denied.

10 114. Denied.

11 115. Denied.

12 Any allegations not specifically admitted herein are denied.

13
14 **AFFIRMATIVE DEFENSES**

15 BNP and BNPP Asia assert the following additional defenses, without assuming the burden
16 of proof on such defenses that would otherwise rest on Plaintiffs:

17
18 **FIRST AFFIRMATIVE DEFENSE**

19 Plaintiffs do not state a claim upon which relief can be granted.

20 **SECOND AFFIRMATIVE DEFENSE**

21 Plaintiffs' have failed to allege their claims with sufficient particularity.

22
23 **THIRD AFFIRMATIVE DEFENSE**

24 Plaintiffs' claims are barred because they have not sustained any cognizable injury
25 proximately or otherwise caused by BNP and/or BNPP Asia's acts or omissions, or the acts or
26 omissions of any other defendant.
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FOURTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because they have suffered no damages or the damages suffered are too speculative and uncertain.

FIFTH AFFIRMATIVE DEFENSE

Any alleged injury, if suffered by Plaintiffs, was not caused by BNP and/or BNPP Asia. Any injury or damage that has been suffered by Plaintiffs was the result of lawful business activities and decisions.

SIXTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred in whole or in part because plaintiffs failed to mitigate their alleged damages, if any.

SEVENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because the alleged conduct did not constitute an unlawful conspiracy.

EIGHTH AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over plaintiffs' claims.

NINTH AFFIRMATIVE DEFENSE

This Court lacks jurisdiction over BNPP Asia.

TENTH AFFIRMATIVE DEFENSE

These answering Defendants are informed and believe and thereon allege that Plaintiffs are estopped from bringing forth its claims as set forth in the First Amended Complaint.

ELEVENTH AFFIRMATIVE DEFENSE

These answering Defendants are informed and believe and thereon allege that Plaintiffs waived any and all of the claims set forth in Plaintiffs' First Amended Complaint, and therefore Plaintiffs' claims are barred.

TWELFTH AFFIRMATIVE DEFENSE

These answering Defendants are informed and believe and thereon allege that Plaintiffs lack the capacity to maintain this lawsuit.

THIRTEENTH AFFIRMATIVE DEFENSE

These answering Defendants are informed and believe and thereon allege that Plaintiffs lack standing to maintain this lawsuit.

FOURTEENTH AFFIRMATIVE DEFENSE

These answering Defendants are informed and believe and thereon allege that as a result of the acts and omissions in the matters relevant to this First Amended Complaint, Plaintiffs have unclean hands and are therefore barred from asserting any claims against these answering Defendants.

FIFTEENTH AFFIRMATIVE DEFENSE

No relief may be obtained under the First Amended Complaint by reason of the Plaintiffs' failure to do equity in the matters alleged in the First Amended Complaint, which was not commenced and has not been prosecuted in good faith and for a proper purpose.

SIXTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred by the doctrine of independent development.

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SEVENTEENTH AFFIRMATIVE DEFENSE

Plaintiffs' claims for punitive damages are brought pursuant to a procedure which is unconstitutional in that it deprives Defendants due process of law.

EIGHTEENTH AFFIRMATIVE DEFENSE

Plaintiffs are not entitled to recover punitive or exemplary damages because Plaintiffs cannot establish facts sufficient to show that Defendants are guilty of oppression, fraud or malice within the meaning of California Civil Code § 3294.

NINETEENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe, and based thereon allege, that each of the incidents and transactions referred to or described in the First Amended Complaint, and any and all injuries or damages, if any, sustained therefrom, were proximately caused, in whole or in part, by the fault, breach of contract and/or other misconduct of and/or chargeable to Plaintiffs. As a result thereof, plaintiffs' recovery, if any, should be reduced by an amount proportionate to the amount by which the fault, breach of contract and/or other misconduct of and/or chargeable to plaintiffs contributed to any and all injuries and damages sustained therefrom. To the extent Plaintiffs have suffered any injury, such injury was caused in whole or in part by the actions and contributory or comparative fault of Plaintiffs and their agents, and any recovery by Plaintiffs must be reduced or denied accordingly.

TWENTIETH AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred, in whole or in part, because Defendants did not act with the requisite degree of intent or fault.

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TWENTY-FIRST AFFIRMATIVE DEFENSE

Without conceding any of the allegations in Plaintiffs' First Amended Complaint, Defendants allege that plaintiffs' Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh causes of action, *inter alia*, all are preempted by California Civil Code § 3426.7.

TWENTY-SECOND AFFIRMATIVE DEFENSE

Plaintiffs' claims are barred because some or all of them are governed by Indian law.

PRAYER

WHEREFORE, BNP and BNPP Asia pray that the Court will dismiss all claims asserted by plaintiffs and award costs, attorney's fees, and any other relief permitted by law to BNP and BNPP Asia.

DATED: September 10, 2008

DAVIS WRIGHT TREMAINE LLP

By: /s/
Joseph E. Addiego III

Leiv Blad
CLIFFORD CHANCE US LLP

Attorneys for Defendants
BNP PARIBAS, BNP PARIBAS, and BNP
SECURITIES (ASIA) LIMITED

DEMAND FOR JURY TRIAL

Defendants BNP Paribas and BNP Paribas Securities (Asia) Limited hereby demand a jury trial of all issues so triable as provided by Rule 38(a) of the Federal Rules of Civil Procedure.

DATED: September 10, 2008

DAVIS WRIGHT TREMAINE LLP

By: /s/
Joseph E. Addiego III

Leiv Blad
CLIFFORD CHANCE US LLP
Attorneys for Defendants
BNP PARIBAS, BNP PARIBAS, and BNP
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